

PRISONER'S CIVIL RIGHTS COMPLAINT (Rev. 05/2015)

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

DIANE ZAMORA 814993  
Plaintiff's Name and ID Number

HOBBY UNIT  
Place of Confinement

CASE NO. W-15-CA-365  
(Clerk will assign the number)

v.

WILLIAM STEPHENS  
Defendant's Name and Address

DIRECTOR, TEXAS DEPT. OF  
Defendant's Name and Address

CRIMINAL JUSTICE, CID  
Defendant's Name and Address  
(DO NOT USE "ET AL.")

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INSTRUCTIONS - READ CAREFULLY

NOTICE:

Your complaint is subject to dismissal unless it conforms to these instructions and this form.

1. To start an action you must file an original and one copy of your complaint with the court. You should keep a copy of the complaint for your own records.
2. Your complaint must be legibly handwritten, in ink, or typewritten. You, the plaintiff, must sign and declare under penalty of perjury that the facts are correct. If you need additional space, **DO NOT USE THE REVERSE SIDE OR BACK SIDE OF ANY PAGE.** ATTACH AN ADDITIONAL BLANK PAGE AND WRITE ON IT.
3. You must file a separate complaint for each claim you have unless the various claims are all related to the same incident or issue or are all against the same defendant, Rule 18, Federal Rules of Civil Procedure. Make a short and plain statement of your claim, Rule 8, Federal Rules of Civil Procedure.
4. When these forms are completed, mail the original and one copy to the clerk of the United States district court for the appropriate district of Texas in the division where one or more named defendants are located, or where the incident giving rise to your claim for relief occurred. If you are confined in the Texas Department of Criminal Justice, Correctional Institutions Division (TDCJ-CID), the list labeled as "VENUE LIST" is posted in your unit law library. It is a list of the Texas prison units indicating the appropriate district court, the division and an address list of the divisional clerks.

**FILING FEE AND IN FORMA PAUPERIS (IFP)**

1. In order for your complaint to be filed, it must be accompanied by the statutory filing fee of \$350.00 plus an administrative fee of \$50.00 for a total fee of \$400.00.
2. If you do not have the necessary funds to pay the fee in full at this time, you may request permission to proceed *in forma pauperis*. In this event you must complete the application to proceed *in forma pauperis*, setting forth information to establish your inability to prepay the fees and costs or give security therefor. You must also include a current six-month history of your inmate trust account. If you are an inmate in TDCJ-CID, you can acquire the application to proceed *in forma pauperis* and the certificate of inmate trust account, also known as *in forma pauperis* data sheet, from the law library at your prison unit.
3. The Prison Litigation Reform Act of 1995 (PLRA) provides "... if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee." See 28 U.S.C. § 1915. Thus, the court is required to assess and, when funds exist, collect, the entire filing fee or an initial partial filing fee and monthly installments until the entire amount of the filing fee has been paid by the prisoner. If you submit the application to proceed *in forma pauperis*, the court will apply 28 U.S.C. § 1915 and, if appropriate, assess and collect the entire filing fee or an initial partial filing fee, then monthly installments from your inmate trust account, until the entire \$350.00 statutory filing fee has been paid. (The \$50.00 administrative fee does not apply to cases proceeding *in forma pauperis*.)
4. If you intend to seek *in forma pauperis* status, do not send your complaint without an application to proceed *in forma pauperis* and the certificate of inmate trust account. Complete all essential paperwork before submitting it to the court.

**CHANGE OF ADDRESS**

It is your responsibility to inform the court of any change of address and its effective date. Such notice should be marked "NOTICE TO THE COURT OF CHANGE OF ADDRESS" and shall not include any motion for any other relief. Failure to file a NOTICE TO THE COURT OF CHANGE OF ADDRESS may result in the dismissal of your complaint pursuant to Rule 41(b), Federal Rules of Civil Procedure.

**I. PREVIOUS LAWSUITS:**

A. Have you filed *any* other lawsuit in state or federal court relating to your imprisonment? ☒ YES ☐ NO

B. If your answer to "A" is "yes," describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, giving the same information.)

1. Approximate date of filing lawsuit: ~~August 29, 2012~~ 7/13/12
2. Parties to previous lawsuit:  
 Plaintiff(s) DIANE MICHELLE ZAMORA  
 Defendant(s) RICK THALER
3. Court: (If federal, name the district; if state, name the county.) WESTERN DISTRICT, WACO DIVISION
4. Cause number: W-12-CA-181
5. Name of judge to whom case was assigned: WALTER S. SMITH, JR.
6. Disposition: (Was the case dismissed, appealed, still pending?) DISMISSED
7. Approximate date of disposition: August 29, 2012

II. PLACE OF PRESENT CONFINEMENT: HOBBY UNIT

III. EXHAUSTION OF GRIEVANCE PROCEDURES: NEW GRIEVANCE  
 Have you exhausted all steps of the institutional grievance procedure? IN PROCESS ☒ YES ☒ NO

Attach a copy of your final step of the grievance procedure with the response supplied by the institution.

IV. PARTIES TO THIS SUIT: making a copy at the moment and the situation is urgent.\*  
 A. Name and address of plaintiff: WILLIAM STEPHENS, DIRECTOR, TEXAS DEPT. OF  
CRIMINAL JUSTICE, Correctional Institutions Division, PO BOX 99  
HUNTSVILLE, TEXAS 77342 DIANE MICHELLE ZAMORA #814993  
MOUNTAIN VIEW UNIT, 2305 RANSOM RD., GATESVILLE, TX 76528

B. Full name of each defendant, his official position, his place of employment, and his full mailing address.

Defendant #1: WILLIAM STEPHENS, DIRECTOR, TEXAS DEPT. OF  
CRIMINAL JUSTICE, CID Division

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

He approved my release from Protective Custody / Safekeeping & therefore,  
put my life in danger.

Defendant #2: WARDEN MELODY NELSON

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

RECOMMENDED my RELEASE FROM PC / Safekeeping & endangering my life.

Defendant #3: WARDEN WHITNEY FRANKS

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

RECOMMENDED my RELEASE FROM PC / Safekeeping & endangering my life.

Defendant #4: Ms. Ray, Bureau of Classification Representative

RECOMMENDED my RELEASE FROM PC / Safekeeping & endangering my life.

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

RECOMMENDED my RELEASE FROM PC / Safekeeping & endangering my life.

Defendant #5: BRAD LIVINGSTON

Briefly describe the act(s) or omission(s) of this defendant which you claimed harmed you.

Approved my release from Protective Custody / Safekeeping & endangered my life.

## V. STATEMENT OF CLAIM:

State here in a short and plain statement the facts of your case, that is, what happened, where did it happen, when did it happen, and who was involved. Describe how each defendant is involved. You need not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach extra pages if necessary, but remember the complaint must be stated briefly and concisely. IF YOU VIOLATE THIS RULE, THE COURT MAY STRIKE YOUR COMPLAINT.

On, November 18, 2015, Ms. Ray & Warden Franks held State Classification Committee & recommended my release from Protective Custody/Safekeeping. THIS decision was approved by Warden Nelson and forwarded to HUNTSVILLE for approval by Director William Stephens and Brad Livingston. On February 18, 2016, I was released from Protective Custody to General Population on the Hobby Unit (an unsafe environment). I am in fear for my life and am requesting emergency injunction relief to return to Protective Custody because of my high profile case.

## VI. RELIEF:

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

I request emergency injunction relief to return to protective custody.

## VII. GENERAL BACKGROUND INFORMATION:

A. State, in complete form, all names you have ever used or been known by including any and all aliases.

DIANE MICHELLE ZAMORA

B. List all TDCJ-CID identification numbers you have ever been assigned and all other state or federal prison or FBI numbers ever assigned to you.

814993

## VIII. SANCTIONS:

A. Have you been sanctioned by any court as a result of any lawsuit you have filed? YES ☒ NO

B. If your answer is "yes," give the following information for every lawsuit in which sanctions were imposed. (If more than one, use another piece of paper and answer the same questions.)

1. Court that imposed sanctions (if federal, give the district and division): \_\_\_\_\_

2. Case number: \_\_\_\_\_

3. Approximate date sanctions were imposed: \_\_\_\_\_

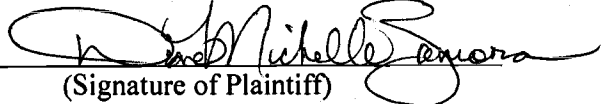
4. Have the sanctions been lifted or otherwise satisfied? YES ☐ NO ☐

C. Has any court ever warned or notified you that sanctions could be imposed? \_\_\_\_\_ YES ☒ NO

D. If your answer is "yes," give the following information for every lawsuit in which a warning was issued. (If more than one, use another piece of paper and answer the same questions.)

1. Court that issued warning (if federal, give the district and division): \_\_\_\_\_
2. Case number: \_\_\_\_\_
3. Approximate date warning was issued: \_\_\_\_\_

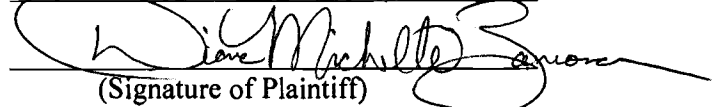
Executed on: 2/18/16  
DATE

DIANE MICHELLE ZAMORA  
  
(Signature of Plaintiff)

### PLAINTIFF'S DECLARATIONS

1. I declare under penalty of perjury all facts presented in this complaint and attachments thereto are true and correct.
2. I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.
3. I understand I must exhaust all available administrative remedies prior to filing this lawsuit.
4. I understand I am prohibited from bringing an *in forma pauperis* lawsuit if I have brought three or more civil actions or appeals (from a judgment in a civil action) in a court of the United States while incarcerated or detained in any facility, which lawsuits were dismissed on the ground they were frivolous, malicious, or failed to state a claim upon which relief may be granted, unless I am under imminent danger of serious physical injury.
5. I understand even if I am allowed to proceed without prepayment of costs, I am responsible for the entire filing fee and costs assessed by the court, which shall be deducted in accordance with the law from my inmate trust account by my custodian until the filing fee is paid.

Signed this 18<sup>th</sup> day of FEBRUARY, 20 16.  
(Day) (month) (year)

DIANE MICHELLE ZAMORA  
  
(Signature of Plaintiff)

**WARNING:** Plaintiff is advised any false or deliberately misleading information provided in response to the above questions may result in the imposition of sanctions. The sanctions the court may impose include, but are not limited to, monetary sanctions and the dismissal of this action with prejudice.



**Texas Department of Criminal Justice**  
**STEP 2** **OFFENDER**  
**GRIEVANCE FORM**

Offender Name: Diane Zamora TDCJ # 814993  
 Unit: Mountain View Housing Assignment: E-#2  
 Unit where incident occurred: Mountain View

OFFICE USE ONLY	
Grievance #:	<u>2016046211</u>
UGI Recd Date:	<u>11.19.15</u>
HQ Recd Date:	<u>DEC 28 2015</u>
Date Due:	<u>01.30</u>
Grievance Code:	<u>109</u>
Investigator ID #:	<u>I2133</u>
Extension Date:	<u>3/10/16</u>

*You must attach the completed Step 1 Grievance that has been signed by the Warden for your Step 2 appeal to be accepted. You may not appeal to Step 2 with a Step 1 that has been returned unprocessed.*

Give reason for appeal (Be specific). *I am dissatisfied with the response at Step 1 because...*

*I am appealing the Step 1 response Warden Nelson's answer revealed no serious investigation. She does not even address that I fear for my safety and has not been candid with State Classification or her Superiors about the true situation in protective/safekeeping. It was only on a recent (12-11-15) visit by Directors Guerrero and Director Brown that I heard Warden Franks explaining that we are separated into 2 groups in P.C. because we "don't get along". What about the OPI's filed and threats made against me and Inmate Saldivar? It should not surprise anyone that my "group" contains only 2 people (Saldivar and myself), the two highest profile inmates in the building & consequently the two requiring the highest degree of protection - EVEN from the other safekeeping inmates. Yet, it made sense to recommend my removal from protective status? This administration has no concern for my safety & I appeal asking that a higher authority investigate the matter.*

Offender Signature: \_\_\_\_\_

Date: 12-18-15

Grievance Response:

Your grievance has been reviewed and noted. You are currently assigned S3/P6. Investigation revealed this issue was appropriately addressed at the Step 1 Level. No further action is warranted by this office.

T. Brown, ARD January 28, 2016

Signature Authority: \_\_\_\_\_

Date: \_\_\_\_\_

Returned because: *\*Resubmit this form when corrections are made.*

- ☐ 1. Grievable time period has expired.
- ☐ 2. Illegible/Incomprehensible. \*
- ☐ 3. Originals not submitted. \*
- ☐ 4. Inappropriate/Excessive attachments. \*
- ☐ 5. Malicious use of vulgar, indecent, or physically threatening language. \*
- ☐ 6. Inappropriate. \*

CGO Staff Signature: \_\_\_\_\_

I-128 Back (Revised 9-1-2001)

**OFFICE USE ONLY**Initial Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

2<sup>nd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_

3<sup>rd</sup> Submission

CGO Initials: \_\_\_\_\_

Date UGI Recd: \_\_\_\_\_

Date CGO Recd: \_\_\_\_\_

(check one) ☐ Screened ☐ Improperly Submitted

Comments: \_\_\_\_\_

Date Returned to Offender: \_\_\_\_\_



February 18, 2016

United States District Court  
Western District of Texas  
Waco Division  
c/o District Clerk  
800 Franklin Ave.  
Room 380  
Waco, Texas 76701

RECEIVED

FEB 24 2016

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY \_\_\_\_\_ DEPUTY CLERK

Re: Diane Michelle Zamora v. William Stephens  
Civil No. W-15-CA-365

Dear Sir/Madam:

Enclosed please find the completed form requested by Judge Jeffrey C. Manske. The remaining balance of \$395.00 will arrive by separate envelope shortly.

Thank you for your assistance in this most urgent matter.

Respectfully Submitted,

Diane Michelle Zamora

DIANE MICHELLE ZAMORA

TDCJ # 814993

HOBBY UNIT

742 FM 712

MARLIN, TX 76661-4685